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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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NEW YORK, NY 10022

EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/813,413

Applicant(s)
JURIMAE et al

Examiner
Thomas J. Brahan

Art Unit
3652



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 4, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-24 is/are pending in the application.
- 4a) Of the above, claim(s) 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

1. The request to correct the inventorship of this nonprovisional application under 37 CFR 1.48(a) is deficient because it added new inventors without a letter of consent from the assignee.
2. Claims 22-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in Paper No. 8.
3. The proposed drawing corrections filed November 26, 2002 have not been approved by the examiner, as new drawing figures 7B and 14 introduce new matter. They were also were filed without a set of copies showing the proposed changes in red ink.
4. The amendment filed November 26, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. Applicant is required to cancel the new matter in the reply to this Office Action. The added material which is not supported by the original disclosure is as follows:
 - a. The amendment to the paragraphs beginning at page 6, line 6, and at page 7, line 5, as the guard rails are new matter.
 - b. The amendment to the paragraph beginning at page 8, line 5, as the locking method for dog 70 is new matter.
 - c. The amendment to the paragraph beginning at page 9, line 3, as it discusses the proposed new drawing figure 7B which includes new matter.
5. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the concrete structure with holes of claim 21, must be shown, or the features must be canceled from the claims. No new matter may be entered.
6. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate description of the claimed invention.
 - a. The structures for clamping foot members 25 and for clamps 88 are not understood. The description in the original disclosure is not understood. The specification from the bottom of page 8 through the top of page 9 cannot be correlated with drawing figures 8-10.
 - b. The original disclosure for the structures of the dogs 70 and dogs 80 is not understood. How do the dogs rotate? They have upper and lower pins, as shown figure 5B. Neither of the pins are disclosed as removable. An element with two parallel pins cannot rotate. It is also unclear as to how removing locking pin 76 permits the dog to pivot. Note that the locking pin 76 extends through the pin attached to the handle 74 and does not appear to have a locking function.
8. Claims 1-5 and 7-21 are rejected under 35 U.S.C. § 112, first paragraph, because the dog structures are inoperative, and a climbing crane with inoperative dogs cannot function.
9. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
10. Claims 7-14, and 16-18, are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. In claim 7, it is unclear as to how applicant is considering the lower frame (36) as having a larger diameter than the upper frame (30). Note that page 6, lines 6-8 has the horizontal arms (40) as attached to the lower frame 36, not part of the lower frame. Claim 16 has a similar limitation. It is also unclear as to which arms are being claimed as the plurality of arms in line 4. The first part of the limitation has the arms coupling the upper frame (30) to the lower frame (36) as to be discussing arms 32. However the second part of the limitation has the arms extending to a support stub, as to be discussing arms 34, 38 or 40.

b. In claim 8, it is unclear as to how the support stubs of line 4 are different from the support stubs of claim 1. As claim 8 uses the same term "stubs" for elements already recited in claim 1, from which it depends, claim 8 must specify that these are additional stubs, or specify that these are the same stubs.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-5, 8-10, and 15, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by GB 1,173,524. GB '524 shows a tower crane device comprising:

a basket (17) supporting a tower crane; and

a plurality of support stubs (angle irons 41 at the corners of the tower element) attached to a respective vertical column of a structure, wherein the basket rests on the support stubs.

A plurality of outriggers (36) are attached to the basket and are supported by the stubs, as recited in claims 2 and 4. Tenots (42) can be considered as the clamps recited in claim 3 or the foot members recited in claims 4 and 15. Each support stub includes stub members (42) positioned at right angles to each other, as recited in claim 5. A second basket (one of 11 or 15) is slidably coupled to the tower, as recited in claims 8 and 21. A lifter (10) raises a climbing frame (the other of 11 and 15), as recited in claims 9 and 10.

13. Claims 1-5, 7-10, 15-18, and 20, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by GB 1,456,435. GB '435 GB '524 shows a tower crane device comprising:

a basket (3) supporting a tower crane (4); and

a plurality of support stubs (forming sockets 7) attached to a respective vertical column of a structure, wherein the basket rests on the support stubs.

The basket has outriggers (9 or 13), see figures 6 and 7, note that no structure is specified for the outriggers, as recited in claims 2 and 4. The basket has at least three clamps (8 or 12) as recited in claim 3. The clamps can also be considered as the foot members of claims 4 and 15. Note that claim 4 does not depend from claim 3, as to permit the detentes to be considered as clamps as well as outrigger foot members.

Basket 3 has a first frame (the ring 3 surrounding the tower) and a second frame forming the scaffolding and ladder, with a lower frame (3) having a larger diameter than the frame forming the scaffolding, as recited in claims 7 and 16. An upper basket (upper frame 2) moves along the tower via lifters (5) as recited in claims 8-10, 17, and 18.

14. Claims 19-21, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by DE 23 12 509. DE '509 shows a tower crane comprising a lower basket with outriggers attached at the corners and including foot members (26) which engage column stubs (66). When considering claim 21, the basket has outriggers (26) and feet (pins 66) which engage holes in the concrete structure.

15. Claims 1-4, 8-15, 20, and 21, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by DE 2,2042,338 (cited by applicant in the IDS filed October 23, 2002). DE '338 shows a tower crane device comprising:

- a basket (31) supporting a tower crane; and

- a plurality of support stubs (3a) attached to a respective vertical column of a structure, wherein the basket rests on the support stubs.

A plurality of outrigger feet (27) are attached to the basket and extend over the stubs, as recited in claims 2 and 4. Clamps (28) secure the basket to the stubs, as recited in claim 3. recited in claims 4 and 15. A second basket (30) is slidably coupled to the tower, as recited in claims 8 and 21. A lifter (see figure 4) raises a climbing frame and locker dogs (29 or 33), as recited in claims 9-14.

16. Claims 1, 2, 4, 7-10, and 15-20, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by DE 78 17 700 (cited by applicant in the IDS filed October 23, 2002). DE '700 shows a tower crane device comprising:

- a basket (the frames above lift cylinders 58 forms an upper basket, see figure 2) supporting a tower crane; and

- a plurality of support stubs (50') attached to a respective vertical column of a structure, wherein the basket rests on the support stubs.

A plurality of outrigger feet (56) are attached to the baskets and extend over the stubs, as recited in claims 2, 4 and 15. The upper basket (above lift cylinders 58) has a smaller diameter upper frame

mounted above a larger diameter lower frame with coupling arms (24) extending toward stubs (50'), as recited in claims 7 and 16. A second basket (22) is coupled to the tower and is supported on stubs (50) as recited in claims 8, 17 and 20. Lifters (58) raise the baskets, as recited in claims 9, 10, and 18.

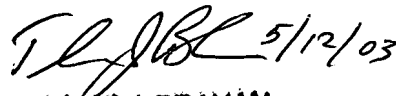
17. Claim 21 is rejected under 35 U.S.C. § 102(b) as being anticipated by JP 2001-10780 (cited by applicant in the IDS filed October 23, 2002). JP '780 shows a tower crane device for a concrete structure comprising:

- a basket (11, 15, or 23) supporting a tower crane; and
- a plurality of outriggers attached to the basket and space apart from each other, each outrigger having a foot (17); and
- a plurality of support holes (at 16a and 16c) disposed on columns of the concrete structure with each support hole receiving a respective outrigger foot.

18. Applicant argues in the amendment filed November 26, 2002, the rejection under 35 U.S.C. § 112(second paragraph) of claims 7 and 16 by stating that the outer frame 42 is larger than the upper frame 36. However as the specification refers to frame 30 as the upper frame, and frame 36 as the lower frame. Frame 42 is denoted as an outer frame. The claims must use the same terms, if they are to be understood. In a similar manner, to claim that the arms coupling the upper frame to the lower frame and extend to the support stubs is not understood when differing terms are used in the claims than in the specification. Applicant argues in the amendment that the reference of GB '534 is not an anticipation, as it does not have a plurality of stubs each mounted on a respective column structure. However the term "stubs" is broad, as to encompass the angle irons (41) and gussets (42) at the corners of the vertical tower elements, see page 3, line 115 through page 4, line 10. Applicant states that these elements are on tower element 2, and that GB 524 does not show how the tower can be set into a building. However the claims do not include any recitations drawn to a building. It only recites "stubs on a respective vertical support of a structure" and the tower element 2 of GB '524 is a structure. In a similar manner, the vertical column 6 of GB '435 is a "structure" as broadly recited in the claims. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) October 23, 2002 prompted the new grounds of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 609(B)(2)(I). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

 5/12/03
THOMAS J. BRAHAN
PRIMARY EXAMINER